

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DOMINICK MARTIN,	)	CASE NO. CV 18-5001-R
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION TO REMAND
v.	)	
	)	
THE SERVICEMASTER COMPANY, LLC;	)	
et al.,	)	
	)	
Defendants.	)	

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Before the Court is Plaintiff's Motion to Remand, which was filed on June 19, 2018. (Dkt. No. 12). Having been thoroughly briefed by both parties, this Court took the matter under submission on July 13, 2018.

On May 1, 2018, Plaintiff filed a complaint in the Superior Court for the County of Los Angeles alleging two claims: one for violation of California's Fair Employment and Housing Act, Cal. Gov't Code § 12940(m) (failure to make a reasonable accommodation), and one for failure to engage in the interactive process. On May 9, 2018, Defendant Servicemaster Company, LLC was served with the complaint. On June 5, 2018, Defendants timely removed the case on the basis of diversity jurisdiction.

1 A defendant may remove a civil action from state court if the action could have originally  
2 been filed in federal court. 28 U.S.C. § 1441(a). “The burden of establishing federal subject  
3 matter jurisdiction falls on the party invoking removal.” *Marin Gen. Hosp. v. Modesto & Empire*  
4 *Traction Co.*, 581 F.3d 941, 944 (9th Cir. 2009). The removing party must prove its jurisdictional  
5 allegations by a preponderance of the evidence. *Id.* at 567. If the complaint does not clearly  
6 establish the jurisdictional amount, then the court may consider facts in the removal petition.  
7 *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997). Courts “may view  
8 whatever evidence has been submitted on the issue to determine whether subject matter  
9 jurisdiction exists....” *Jankins v. Wells Fargo Bank, N.A.*, No. CV 17-00887 BRO (AJW), 2017  
10 WL 1181562, at \*3 (C.D. Cal. March 29, 2017). The Federal Rules do not require that evidence  
11 in support of or in opposition to a motion to remand be admissible. *See id.*

12 Federal courts have diversity jurisdiction over civil actions where the amount in  
13 controversy exceeds \$75,000 and there is complete diversity of citizenship between the parties. 28  
14 U.S.C. § 1331. For purposes of diversity jurisdiction, the citizenship of a limited liability  
15 company is based on citizenship of all of its members. *See Johnson v. Columbia Properties*  
16 *Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Diversity is determined by the state of the  
17 facts at the time the action was filed. *Grupo Dataflux v. Atlas Global Grp., L.P.*, 541 U.S. 567,  
18 570 (2004).

19 The parties do not dispute that there is complete diversity of citizenship between the  
20 parties. However, the parties do dispute whether the required jurisdictional amount in excess of  
21 \$75,000 has been satisfied.

22 Having reviewed the parties’ briefs and supporting evidence, the Court finds that  
23 Defendants have established removal jurisdiction by a preponderance of the evidence. Defendants  
24 affirm the following. On April 10, 2018, Plaintiff sent a demand letter to defense counsel seeking  
25 \$125,000 to settle. Three weeks later, Plaintiff filed a complaint seeking relief for all damages  
26 available under the law, punitive damages, and attorney’s fees. Because Plaintiff did not  
27 specifically request general damages, Plaintiff may also seek special damages. Plaintiff claims he  
28 was attempting to apply for a job as an Outside Sales Representative. This position typically pays

1 in the range of \$40,000-\$60,000 annually, including commissions, with some incumbents earning  
2 \$100,000 or more per year. Further, punitive damages are included in calculating the amount in  
3 controversy, and even if Plaintiff is awarded a minimal award for his damages, punitive damages  
4 can be substantial. *See State Farm v. Campbell*, where the Supreme Court ruled that a single-digit  
5 ratio (i.e., no more than nine-to-one) was appropriate when issuing an award of punitive damages.  
6 538 U.S. 408, 425 (2003).

7 In addition, Plaintiff's Complaint seeks the recovery of attorney's fees. In determining the  
8 amount in controversy, the court should consider the aggregate value of claims for damages as  
9 well as attorney's fees. *See Kroske v. US Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). With  
10 the \$750 hourly rate of Plaintiff's counsel, Scott J. Ferrell, and the damages potentially  
11 recoverable, Defendants have met their burden of establishing that Plaintiff seeks to recover an  
12 amount in excess of \$75,000 in this action. Accordingly, this Court has diversity jurisdiction over  
13 this action.

14 **IT IS HEREBY ORDERED** that Plaintiff's Motion to Remand is DENIED. (Dkt. No.  
15 12).

16 Dated: August 28, 2018.



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19 MANUEL L. REAL  
20 UNITED STATES DISTRICT JUDGE  
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